

9 Official Opinions of the Compliance Board 125 (2014)

◆ NOTICE REQUIREMENT – *METHOD*

- ◇ PRACTICES IN VIOLATION – USE OF WEBSITE ALONE WHEN MEETING CALLED ON SHORT NOTICE

*Topic headings correspond to those in the Opinions Index (2010 edition) at <http://www.oag.state.md.us/opengov/openmeetings/appf.pdf>

July 10, 2014

Re: Morgan State University Board of Regents Executive Committee
Eric White, Complainant

Eric White (“Complainant”) alleges that the Executive Committee of the Morgan State University Board of Regents violated the Open Meetings Act (“the Act”) by not posting notice of the Executive Committee’s Friday, May 2, 2014 meeting in a timely manner. The Executive Committee, by its counsel, explains that the need for the meeting had become apparent earlier that week, that finalizing the details of the meeting took several days, and that the notice was then posted on the Morgan State University on Thursday, May 1. Under the by-laws of the Board of Regents, one of the functions of the Executive Committee, a public body, is to “advise the President on urgent or pressing matters when the Board is not in session.”

The complaint presents this question: When a public body must meet on an urgent basis, does posting notice on the public body’s website one day in advance constitute “reasonable advance notice” under the Act? *See* State Government Article § 10-506(a). We discussed this precise question last month, in 9 *OMCB Opinions* 110, 114-116 (2014). There, on a Saturday, the public body posted notice, only on its website, that it would meet on Sunday. Here, on a Thursday, the Executive Committee posted notice, only on its website, that it would meet on Friday. There, we found that the public body’s use of its usual method was inadequate in light of the shortness of the notice and that it would have been feasible for the public body to use additional methods. Noting that the public cannot be expected to check a website daily for notices, we found that the public body had failed to give “reasonable advance notice” and had thereby violated the Act. We reach the same result here for the reasons we stated there. We refer the Executive Committee to that opinion.¹

¹That opinion can be found at <http://www.oag.state.md.us/Opinions/Open2013/9/omcb110.pdf>

We understand that it can be hard for a public body's staff to publish timely notice when the members have not yet decided on the date, time, and place of the meeting. Two methods, when used together, will often suffice. First, as soon as a public body knows that it will need to meet urgently, it might post that expectation on its website and alert the public to watch the website for details. At the same time, the public body might send that message by e-mail or through social media to the representatives of the press who follow its activities. Public bodies that often must meet on short notice might also develop a list of members of the public who want to receive such notices.

In conclusion, we find that although the Executive Committee notified the public that it would meet on May 2, it did not do so by a method that would have provided "reasonable advance notice" of that meeting. We therefore conclude that the Executive Committee violated the Act.

Open Meetings Compliance Board

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